

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

DENNIS SHERMAN

CIVIL ACTION NO. 23-cv-815

VERSUS

JUDGE S. MAURICE HICKS, JR.

FCCI INSURANCE CO ET AL

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Dennis Sherman (“Plaintiff”) filed this civil action in state court to recover personal injury damages in connection with an auto accident. The defendants removed the case based on an assertion of diversity jurisdiction. The notice of removal and diversity jurisdiction disclosure statements reflect that there is complete diversity of citizenship, but there is some question as to whether the removing defendants have met their burden with respect to the amount in controversy.

Plaintiff’s petition alleges that a wreck occurred on an exit ramp involving the defendants’ Chevrolet K3500 that drove into the rear of a Chevrolet Colorado driven by Plaintiff. The accident pushed the Colorado into the vehicle in front of him, which pushed that vehicle into the vehicle in front of it. Plaintiff alleges that he sustained elements of damages that include the typical list found in any personal injury complaint (physical pain and suffering, mental anguish, medical expenses, lost wages, etc.), but the petition gives no hint as to the nature of any injuries suffered by Plaintiff.

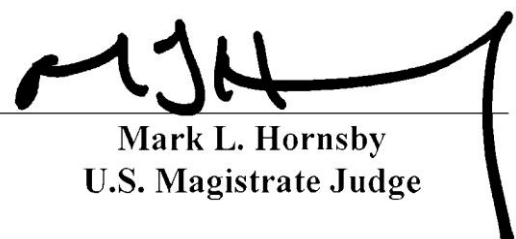
Defendants’ notice of removal points to the allegations in the petition and Plaintiff’s answers to requests for admissions that were served in state court. Plaintiff was asked to admit “that the damages you seek in this lawsuit do not exceed the \$75,000.” Plaintiff

answered, “Denied.” Plaintiff objected and refused to answer a request that he admit that the damages he seeks do not exceed the amount in controversy requirement for removal to federal court. Plaintiff did admit that he is not scheduled for surgery and has not received any recommendation for surgery.

Virtually every personal injury petition filed in state and city courts includes a standard list of categories of damages similar to the one in Plaintiff’s petition. A personal injury suit does not become a federal case just because the plaintiff’s attorney files a petition that gives no hint as to the nature of injury but includes the boilerplate list of damage categories. Wilson v. Hochheim Prairie Cas. Ins. Co., 2014 WL 508520 (W.D. La. 2014). Plaintiff’s denial that his damages “do not exceed” \$75,000 has some weight, but the double-negative nature of the denial deprives it of a degree of certainty that is desirable when assessing jurisdiction. A clear and affirmative statement from Plaintiff, or the submission by defendants of particular facts, will carry more weight.

Defendants are allowed until **July 7, 2023** to file an amended notice of removal and attempt to articulate additional facts in support of their burden regarding the amount in controversy. Such facts might include the nature of the injuries claimed by Plaintiff, the nature and expense of medical treatment, and the amount of any pre-suit settlement demands. The court will assess the record after the deadline and determine whether defendants have met their burden or if the case must be remanded for lack of subject matter jurisdiction.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 22nd day of June, 2023.



Mark L. Hornsby
U.S. Magistrate Judge